

WRANGLE GOES ON AT MEETING OF THE BOARD

(From Thursday's Advertiser.)

Everything that the Republican Supervisors have done since they took the bit in their teeth at the hour of noon, Monday, has received the unqualified legal approval of the County Attorney; everything that the Mayor has done during the same period of time is wrong, void and without effect, according to the same legal authority. Such was the substance of the opinion given yesterday by the City Attorney at the meeting of the Board of Supervisors, an opinion in answer to a request from His Honor for legal advice on some of the knotty points at issue between him and the Board. Accompanying the advice on the points to be covered, the City Attorney gave some gratuitous advice of his own initiative, gravely reproving His Honor for things done that should have been done and things done which should never have been done.

This was one leading incident at the adjourned meeting of the Supervisors yesterday afternoon. Other incidents of the session were the presentation of reports from the standing committees named by the Board in opposition to the committees of the Mayor, reports which the Mayor refused to accept but which were adopted by a majority vote. Supervisor Logan again led the meeting, doing all the demanding of the various questions and then putting them himself after the three repeated refusal of His Honor.

These reports named the various city and county employees, under the authority given the committees by the rules adopted. In this respect there was progress made, the naming of the officers and employees of the city and county being a further development of the majority's plans which bring the inevitable clash nearer and the imperative court ruling closer.

At the road supervisor's office there was something doing, Fern's nominee, Wilson, finding himself and his office force locked out and Tommy Cummins and his office force in fortified possession. During the day the door was not once unlocked, all business being transacted through a half-open window. Captain Coster still holds possession of the stables, although a few of the mules were sent out yesterday to some necessary road work.

All Present and Accounted For.

There was about half the crowd of the night before present yesterday afternoon when the Board resumed its adjourned session at three o'clock, the interested ones being principally city and county employees, some in process of passing, others in process of arriving. This crowd was stolid and there were no interruptions to the general trend of the meeting except a persistent murmuring.

There were no minutes of the night before ready for reading, so that in dictation and the certain scrap there would have been over their acceptance were avoided. There was no time lost in locking horns, however, the very first item of business bringing about a refusal of the Mayor to accept a report and put a motion.

As soon, practically, as the Board had come to order, Quinn rose and presented a report from the committee on roads, bridges, garbage, parks and public improvements, stating that the committee had looked into the matter of the bids for supplies and decided that none could be accepted, the bids not having been advertised for. The committee favored purchasing supplies for the month without bids and advertising in time for awarding next month's contracts. The report was signed by Quinn, Aylett and Kane.

"As the names of the men signing this report are not members of the committee to which this matter was referred, I can not accept it as a committee report. I rule the motion to accept it as out of order," announced the Mayor.

Logan appealed thrice, put the appeal, demanded the motion three times and put it himself, McClellan being the minority of one on each vote.

Road Employees Named.

Quinn then presented another report, this one announcing the names of the men employed for the road work by the committee, basing their right to so employ them under the rules adopted by the Supervisors and denied effectiveness by the Mayor. The report gave also the amount of salary per month each of the various employees was to receive. This list, with the respective salaries, is:

O. J. Whitehead, prison luna, \$ 90.00	Thomas Square	40.00
Thos. P. Cummins, road overseer	J. K. Kahoiwal, keeper of park, Thomas Square	40.00
D. Crowningberg, asst. road overseer	J. H. Travis, road foreman, Ewa District	125.00
L. A. K. Evans, bookkeeper	E. Kekula, stable luna, Ewa District	55.00
Ed. Hopkins, timekeeper	Fred. Meyers, road foreman, Waianae District	50.00
Luey Lloyd, clerk and sten.	S. Kila, luna, Waianae Dist.	50.00
Henry Kailimai, clerk	Chas. Kukea, road foreman, Waialua District	75.00
N. P. Jacobsen, collector	M. Leiwala, stable luna, Waianae District	40.00
Chas. Coster, foreman 4th Dist. stables	Andrew Adams, road foreman, Koolauloa District	65.00
E. Kinsey, watchman, 4th Dist. stables	Chas. Bridges, luna, Koolauloa District	75.00
H. Alapai, foreman 5th Dist. stables	Sol. Peek, road foreman, Koolaulopo District	75.00
Chas. Ekahi, watchman, 5th Dist. stables	J. N. Gere, luna, Koolaulopo District	100.00
Sam Lehua, pump luna	Tom Forrest, blacksmith, Koolaulopo District	75.00
Simon Dias, prison luna	John Crowder, stableman, Koolaulopo District	46.50
Kosh. Kaahane, prison luna	M. Lopez, Sr., roller engineer, Koolaulopo District	85.00
Geo. Kapihe, watchman	M. Lopez, Jr., roller engineer, Koolaulopo District	35.00
Makakoa, watchman	Kapiolani Park pound—Poundmaster, Alex. Young	
J. K. Kaianui, watchman	Kalihi pound—Poundmaster, Fred. W. Beckley	
J. K. Maunakea, estray police	Nununu pound—Poundmaster, David Loloili	
Wm. Karranti, poundmaster	Heeia pound, Koolaulopo—Poundmaster, David Watson	
G. H. Gere, engineer and surveyor	Laie pound—Poundmaster, W. K. Apuakehau	
Chris. Willis, asst. eng. and surveyor	Waialua pound—Poundmaster Joseph Kahookamoku	
Robt. Kalanokalani, chairman	Kemoa pound, Waialua—Poundmaster, M. K. Coelho	
Hiram Kabele, chairman	Pupukea pound, Koolauloa—Poundmaster, E. K. Ellsworth	
W. H. Kailima, keeper of park, Aala	Waianae pound—Poundmaster, Fred. Meyers	
E. Palau, keeper of park, Aala	Pearl City pound, Ewa—Poundmaster, J. E. Kahoa	
S. L. Aylett, keeper of park, Emma Square		
Alex. Bishaw, keeper of park		

moving, however, that it be read by the clerk.

"Don't make the first motion," said Logan. "I want to see as few motions as possible, because I have to put them all."

Logan put the motion to accept, to which there were six "ayes" and one "no."

List of Bandmen.

Aha, for the committee on public expenditures, then presented his list of bandmen. The list and the salaries were:

H. Berger, band director	\$185.00
D. K. Naone, bandman	65.00
Chas. Palikapu, bandman	60.00
R. H. Baker, bandman	60.00
M. Mendoza, bandman	60.00
S. Kaili, bandman	60.00
L. Salamanee, bandman	60.00
P. K. Kakalia, bandman	50.00
H. A. Elona, bandman	50.00
J. Naone, bandman	50.00
Jas. McCabe, bandman	47.50
M. Garcia, bandman	45.00
D. Kaili, bandman	44.00
H. Keauu, bandman	42.50
S. Kamaika, bandman	42.50
R. Kapua, bandman	40.00
H. Keawe, bandman	40.00
G. Wela, bandman	40.00
J. Puna, bandman	40.00
P. Kaili, bandman	40.00
W. C. Kaili, bandman	40.00
P. Kaili, bandman	40.00
J. Amosin, bandman	40.00
S. Opeka, bandman	38.00
J. M. Gomes, bandman	38.00
Mrs. N. Alapai	40.00

This went the same old way past the Mayor into Logan's hands.

Unanimous for Once.

Logan presented a special committee report regarding the lease of the City and County offices, asking for more time. The members were unanimous but a new question had arisen. This was a report that a shorter lease than for five years might be had and also the right to sublet any office not required.

It is understood that McClellan was instrumental in securing these concessions, although that was not mentioned. The time asked for was granted.

City Attorney Answers Mayor.

City Attorney Cathcart then presented his answer to the questions propounded to him by Mayor Fern. The opinion of Cathcart on the several points is:

"In replying to your letter of the 5th inst., asking my advice upon certain points, I would respectfully promise by saying that it would be disingenuous in me to affect to believe that your request for my advice is dictated by any bona fide desire to know or to follow my opinion on the construction of the law involved. Your failure to seek my advice heretofore; the time at which you presented your letter to me,—during the session of the board last evening; the manner of such presentation,—handing it to me at the board meeting, and at the same time giving a copy to the clerk and directing him to read it publicly; the form in which you present the questions on which you ask my opinion,—being in the nature of a controversial argument in favor of the construction of the law already made by you or your advisors, and bearing evidence of being prepared by a trained lawyer; all these decisively show that whatever the purpose of submitting to me your request for advice, it is certainly not done with the intention of being guided by my answer. However, I am perfectly willing that you should be informed of my construction of the law involved in the several points that your letter raises.

"In my opinion, under the Municipal Act, the charter of the City and County of Honolulu took effect at noon on the 4th day of January, 1909, and was not in effect in the month of December, 1908.

"In reference to your request for my opinion, as to the effect of the resolution of the Board of Supervisors of the County of Oahu, to which you refer, upon appointments made by you, I would say that, whatever might be the object of the provisions of Section 146, its own provisions and a construction of the entire charter render it inoperative. In other words, the charter evidences the unskilled hand of the draftsman, and no construction thereof, as a whole, can, in my opinion, render the section on which you have relied in making your appointments operative.

"The Board of Supervisors of the County of Oahu, if they created any offices or positions, had certainly the power to abolish them, nor was that power taken away by any legislative act, and the provisions of the charter will have to be construed with a view to that power remaining in the Board of Supervisors of the County of Oahu. If there were no offices, to which you had the appointing power, existing when the charter took effect, I cannot see how any appointees of yours could assume a non-existent office.

"Section 81 of the Municipal Act gives to the Mayor, with the approval of the Board of Supervisors, the appointment of 'All officers of the City and County whose election or appointment is not otherwise specially provided for in this charter or by law.'

"Section 146 provides that within a certain specified time, the Mayor 'shall make all the appointments provided by this charter to be made by him.' But the charter nowhere gives to the Mayor the power to make appointments without the approval of the Board of Supervisors and it would therefore seem that Section 146 is inoperative in this respect. However, if it should be held to be operative, then the approval of the board would seem to be necessary. In such event, the only persons the Mayor, with such approval, could appoint would be officers whose election or appointment was not otherwise provided for, and in my opinion, there were and are no officers of the City and County of Honolulu whose election or appointment is not otherwise provided for, either by the charter or by law. On the other hand, if it should be held that there were certain offices of the County of Oahu which became offices of the City and County of Honolulu, within the meaning of Section 81, after that municipal corporation came into existence, no possible construction of law could make officers out of bandmasters, lamp repairers, line-men, lamp trimmers, dynamo men, assistant dynamo men, poundmasters, keepers of parks, chain men, collectors of garbage, lunas, bookkeepers and timekeepers, stenographers and clerks, foremen, watchmen, stable

watchmen, men to take up estrays, road lunas, stable lunas, blacksmiths, stable men, laborers on the roads known as cantoniers and messengers, such as you have attempted to appoint.

"The resolution of the Board of Supervisors of the County of Oahu, to which you refer, abolished all boards, committees, commissions, offices, positions and employments and repealed the divers actions by which such were created and at the same time repealed its own rules and regulations. Such a resolution was clearly within the power of the Board of Supervisors. If they created offices, employments, boards, or commissions, they had the power to abolish the same and had the power to repeal the action which created the same. They had the power to make rules and had the power to repeal them. The County Act contained no limitations on these powers. The question of the reasonableness of the resolution referred to was for the Board of Supervisors of the County of Oahu to determine, and a failure to provide for the business of the County after the passage of the resolution would be of no practical importance in view of the fact that within a few moments the City and County of Honolulu came into existence with the powers and the duty to maintain the business of the City and County. With due respect, I would suggest that any criticism of the action of the Board of Supervisors of the County of Oahu in creating a possible interregnum of a few moments duration is hardly reasonable in view of the action of the Mayor at the meeting of the Board of Supervisors of the City and County of Honolulu on the evening of January the 5th, 1909, in refusing to put motions providing for the pay of City and County employees, the purchase of materials, and the appropriation of money to maintain the City and County government, as such action of the Mayor if it had not been provided against, would have caused the cessation of all the business of the City and County and would have developed a condition of anarchy extending over a period of time reaching to weeks, if not to months. I make this suggestion in good faith so that your Honor may fully appreciate the gravity of the present crisis.

"In reference to the adoption of rules by the Board of Supervisors of the City and County of Honolulu upon which you ask my advice, I would say that, I believe the board had a right to adopt the same on motion and that they do not constitute a resolution within the meaning of the provisions of Section 20; nor do the provisions of such rules, authorizing the committees to engage employees, involve the disposition of public property or the expenditure of public money within the meaning of Section 17. Any other construction would require every laborer to be employed by resolution or ordinance.

"The meeting held at the hour of noon on Monday, the 4th day of January, 1909, was a meeting undoubtedly contemplated by the provisions of the charter. Such provisions require all the members of the Board of Supervisors to take office at that time. The taking of office does not consist in meeting in an assembly room, sitting down in chairs around the table, greeting the Mayor and receiving his inaugural address, but means the assembling together, a showing of election and of qualification under the law and organization as a body. One essential of organization is the adoption of rules. I do not consider that the meeting was a special meeting called by you as you seem to assume in your letter, but the meeting was one requiring no call because contemplated by the charter.

"The executive and appointive powers of the Mayor are no greater than defined by law, and I know of no law that confers upon the Mayor of the City and County of Honolulu the power to 'Engage men and direct their work.' Accordingly the rules of the Board of Supervisors cannot infringe upon a power not conferred upon you.

"I am inclined to believe that the action of the Board of Supervisors of the City and County of Honolulu concerning certain offices, positions, etc., created by the Board of Supervisors of the County of Oahu was valid.

"In reference to your doubt of the validity of certain actions of the Board as affecting the expenditure of money, I would say that the Board of Supervisors has inherent as well as express power to prescribe rules and regulations governing its action. The City and County of Honolulu is given power to provide for certain Municipal functions, but the Charter does not prescribe any particular manner for the performance of those functions, such as creating various departments, and carrying on the operations of the municipality through departments and through department heads. The limitation of the Board of Supervisors and the powers conferred on the Mayor are expressed in the Charter, and except as thereby limited or controlled by the grant of executive power, the Board of Supervisors are the governing body of the City and County of Honolulu. If there was doubt as to the power of the Board of Supervisors to adopt rules governing its actions and prescribing the duties of the various committees at the meeting of January the 4th, yet the re-adoption of such rules at the meeting of January the 5th would cure any legal defect. It is true the presiding officer refused to put some motions made and seconded by members of the Board of Supervisors and that thereupon the same were carried on the question being put by a member of the Board, but this does not effect the validity of the action, for when a presiding officer refuses to act in that behalf, any member has the power to put the motion.

"In conclusion, I would say that I believe the validity of the actions of the Board of Supervisors of the City and County of Honolulu cannot be successfully attacked.

There was no comment on this letter.

Auditor Bicknell Names Staff.

City Auditor Bicknell's announcement that he had selected Solomon Mahelona as his assistant at the old salary was received and the appointment confirmed on top of the Mayor's refusal to accept it or put a motion in the matter.

Another Committee Clash.

A petition from Palama residents that Auld lane be lighted was referred on motion to the committee on fire department and electric light, in spite of Fern's protest that "There isn't any such a committee."

Chance for Willie Crawford.

The City Attorney reminded the mem-

bers that the District Magistrate had named no Chinese interpreter for the district court and asked the board to nominate someone. After some discussion, during which Logan stated that he wasn't familiar enough with the Chinese to suggest a name, it was decided to decline to make any nomination. The clerk was instructed to so notify Mr. Andrade and to suggest that he ask the City Attorney to name a man. This last was at Cathcart's suggestion. Willie Crawford beamed in the doorway during this part of the proceedings.

Logan was the first to ask Cathcart to make the nomination, but the legal adviser of the Board bashfully declined to openly express any preference he might have at that time.

Logan's motion in this was put by the Mayor and got a unanimous vote.

Then followed the motion to adjourn, also put by His Honor and carried with no dissenting voice.

The Board will meet again this afternoon at one o'clock.

Road Work Begins Today.

Supervisor Quinn, the chairman of the majority committee in charge of the road work, announced after the meeting that everything was in order now to get to work on the roads.

"We start right in with a full force of men tomorrow," he said. "The first job to be tackled will be King street. We will start in at River street and finish up all that end of the street clear out to the Fort. We will have four steam rollers and we will push things right along from now on.

"We are also going to start out a repair gang, whose work it will be to keep moving around the city to watch for the beginning of breaking up on the roads. Just as soon as a break starts we will have it repaired. We intend not only to build good roads but to keep them in repair once they are built. In this we expect to have better roads, make them last longer and have the expense less than ever before in Oahu."

Democrats Are Satisfied.

The Democratic leaders express perfect satisfaction at the situation now developing in city government affairs. There is some dissatisfaction expressed at the partisan manner in which the City Attorney is acting, sitting at the Board meetings and openly coaching the Republican members in the scrap under way. As the City Attorney is supposed to be the legal adviser of the Mayor, the fact that he does not hold himself in an impartial attitude is severely commented on.

"We are quite satisfied at the way the Republican majority is exposing its hand," said one prominent Democrat last night. "The fact that the Republicans at yesterday's meeting undertook under their so-called rules to appoint a long list of employees is something that shows the interpretation they intend to put on those rules.

"The point we make is that the law expressly provides that any measure of action involving the expenditure of city funds must be submitted to the Mayor for his approval or veto. Certainly rules that admit of the appointing of many employees at salaries are something that involves expenditures of money, and the fact that as yet nothing has been submitted for the approval of the Mayor shows that the intention of the majority of the Supervisors is to strip the Mayor of every vestige of the authority imposed in him by the law. This is what we want the public to see before the matter is taken into the courts.

"If the Supervisors by rules can vote salaries to officers, they can by rules also go ahead and build a city hall or do anything else they want without consulting the Mayor in any way, thus making him a figurehead pure and simple. The Supervisors have reached out too far and has nullified their every action. The court will certainly rule so and the validity of everything done so far will be denied.

"The city will suffer for all the actions so far taken."

Compromise Being Talked.

There is a good deal of talk about town, among the business men, of the necessity of forcing the warring factions into some kind of a compromise in order that the government of the city can go on with some reasonable degree of steadiness. It is also stated that there are some members of the board ready to get together and talk business, now that both sides have made their grandstand plays and satisfied their party followings that they have done tremendous and earnest work in their interest.

It is said that Fern will be approached with a proposition to accept the majority choice for most of the minor positions and take the road supervisorship for his nominee, Wilson. The factions are agreed on the heads of the other departments. This would drop Tommy Cummins, but the Republicans are said to be rather glad of an excuse to get rid of him in this easy way. There is a good deal of adverse comment on the fact that Cummins yesterday fired Merseberg, who had aspired to step into his shoes and who had a strong backing among the business men.

Mayor Is Dubious.

Mayor Fern is not at all enthusiastic regarding the compromise idea, however, intimating that he wanted to have the various questions at issue now go into the courts for a definite settlement. He is willing to enter into a temporary compromise in order that the public work may proceed, but he does not want to compromise and leave behind him unsettled all the points now being wrangled over, points which may then be brought up later.

"I want nothing more out of this than the law allows me," he said. "If the courts decide that I have not the powers I have assumed, all right; if they sustain me and I am right, as I certainly think I am, I want to know it."

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OAKLAND MAID VOWS POVERTY

Stating that she is about to take perpetual vows of poverty and become a Sister in the order of the Holy Names of Jesus and Mary, Charlotte Olga Berger, of Oakland, California, has filed a document with Registrar Merriam making her mother, Martha Berger, of this city, her attorney in fact, and giving her the right to sell or dispose of as she pleases eleven shares of stock in the Waianae Sugar Plantation Company and two bonds, valued at \$1000 each.

Her mother is also given the right and power to vote the stock as she chooses at meetings of the company. In case Martha Berger should die before the property named is disposed of, it is to be given to the secretary of the Sisters of the Holy Names of Jesus and Mary.

Five hundred dollars is the sum which Charlotte Berger states that she will pay to the order immediately as an entrance fee. In the religious congregation, she is to be known as "Sister Olga."

UNBRACED DERRICK AT HILO KILLS A MAN

HILO, Hawaii, January 6.—One man is dead, another is in the hospital seriously injured, and a third is suffering from hurts, as the result of an accident which took place on the Hilo breakwater last night. W. D. Johnson, engineer in charge of one of the big cranes, was the man killed. Inspector Willard, attached to the crane crew, is consigned to the hospital, while Beasley, another employee, is wounded.

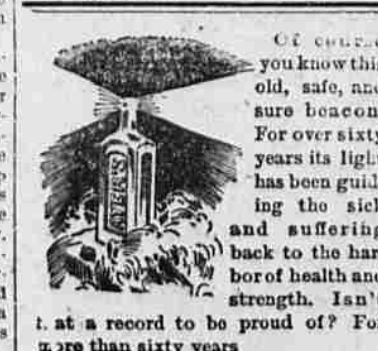
The three men were all attached to one of the big cranes which is used for lifting the great rocks used in the construction of the Hilo breakwater into place. A five-ton rock was being placed on the work when the unbraced crane gave way and fell into the sea, carrying Johnson with it. The crane had started hoisting without a signal, it is claimed.

No inquest will be held over the dead man. The funeral will be held today. Johnson was formerly employed by the Hawaiian Dredging Company.

Mr. Johnson was brought to the Islands by E. J. Lord, and worked on the Honolulu harbor dredging contract, recently completed. Mr. Willard was the government inspector, and H. C. Beasley is well known in Honolulu. He did all the woodwork polishing in James B. Castle's residence.

PLIGHT OF JAPANESE EMIGRATION COMPANIES.

The prohibition of emigration to Hawaii has dealt a serious blow to the Japanese emigration business. Over thirty emigration companies in this country have almost all suspended business and some of them, says the Japan Times, have closed their doors. Those continuing business are the Moriooka Co., Empire Emigration Co. and Meiji Emigration Co. They remain in business with no small difficulty by sending emigrants to South America, chiefly Brazil and Peru. But the steady growth of national expansion, the Tokio paper remarks, does not allow the Japanese to confine themselves any longer within the limited extent of their fatherland, while of late the national tendency is greatly prone to overseas development. Some time ago Messrs. Hase and Otsuki, of the Sendai Emigration Co., organized the Canada Farming Co. as a joint stock enterprise. The company is now engaged in farming work in Canada for furtherance of the object with which it was started. Quite recently a party of the shareholders of the Empire Emigration Co. started a new emigration company named the Teikoku Shokumin Kaisha, with a capital of 2,000,000 yen, to send emigrants to Brazil and other South American states. Should these new concerns be successfully floated and aim at the development of their business under the government's aid and assistance, the emigration business will revive.—Shipping Illustrated.



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